



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

SMC
Docket No: 07982-99
6 April 2000

GYSGT [REDACTED] USMC
[REDACTED]
[REDACTED]

Dear Gunnery Sergeant [REDACTED]:

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 6 April 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 15 December 1999, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. The Board was unable to find the reporting senior had inadequate observation of your performance, noting observation need not be direct. The Board likewise was unable to find you were not counseled, noting the reviewing officer's statement of 5 October 1999 and the third sighting officer's statement of 23 November 1999 both indicate you were. The Board was unable to find you were evaluated as you were because you were not a member of your platoon commander's hunting and fishing clique. Finally, they found your more favorable fitness reports for other periods did not invalidate the report at issue. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records.

Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure

7982-99



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:
1610
MMER/PERB
DEC 15 1999

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF
GUNNERY SERGEANT [REDACTED] USMC

Ref: (a) GySgt. [REDACTED] 7D Form 149 of 20 Mar 99
(b) MCO P1610.7D w/Ch 1-5

Encl: (1) Completed Fitness Report 980701 to 980930 (DC)

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 2 June 1999 to consider Gunnery Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 980701 to 980930 (DC) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends the report is unjust due to the insufficient observation of his performance. To support his appeal, the petitioner furnishes his own statement and an advocacy letter from [REDACTED]

3. In its proceedings, the PERB concluded that the overall tenor of the evaluation, to include the comments of both the Reporting Senior and Reviewing Officer, are such that the petitioner should have been afforded an opportunity to acknowledge and respond. Owing to the recency of the fitness report at the time the PERB first considered reference (a) (eight months), the Board concluded that referral at that time would be a viable option. All action in connection with the referral has been completed and the views of all parties are equally represented in the record. Of significance are the comments of both the Reviewing Officer [REDACTED] and the Adverse Sighting Officer (Lieutenant Colonel [REDACTED]) both of whom dispel any perception of inaccuracy or injustice.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report, as reflected in the enclosure, should remain a part of Gunnery Sergeant [REDACTED] official military record.

(3) PERB

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF
GUNNERY SERGEANT [REDACTED] USMC

5. The case is forwarded for final action.

[REDACTED]

Chairperson, Performance
Evaluation Review Board
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps